

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

IN THE MATTER OF:)	No. B-10-80953 C-13D
Jesse C. Lay)	
)	
Debtor(s))	

**ORDER GRANTING MODIFICATION OF PLAN AND
LIFTING OF THE AUTOMATIC STAY**

On July 28, 2011, a hearing was held on the Motion by the Debtor to modify his Chapter 13 plan, pursuant to 11 U.S.C. §1329, to release property known as 2508 Dakota St., Durham, NC (“the real property”) to the lienholder, CitiMortgage, Inc. (“CitiMortgage”). At the hearing, Koury Hicks, Esq. appeared on behalf of the Debtor, and Richard M. Hutson II, Standing Trustee appeared. No other party appeared or objected to the Motion. The Court, after considering the Motion and having heard and considered the statements of counsel and the Trustee, finds that there is sufficient evidence of a substantial change in the Debtor’s circumstances and that the modification complies with the provisions of 11 U.S.C. §1325; therefore, it is ORDERED:

1. The Motion, as amended in open Court, by the Debtor pursuant to 11 U.S.C. §1329 is granted.
2. The automatic stay is modified to permit CitiMortgage to foreclose upon the real property.
3. Any surplus equity above and beyond valid liens derived from the sale of the real property shall be paid to the Standing Trustee for application to the Debtors’ plan.
4. In the event of a deficiency, CitiMortgage shall have 180 days from the entry date of this Order within which to file the documented deficiency claim for any deficiency realized from the sale of the real property and failure to file the documented deficiency claim within such time will result in the release of the real property being in full satisfaction of the indebtedness due CitiMortgage and the Debtor’s liability.
5. The stay of this Order under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure is not applicable.

6. The Debtor's plan payments are scheduled at \$2,623.00 per month beginning August, 2011, and shall continue until all secured and priority claims are paid in full and the applicable commitment period is satisfied.

7. John T. Orcutt, Esq. is allowed the presumptive fee of \$250.00 for services rendered in the filing of this Motion which shall be paid through the Debtor's plan.

PARTIES IN INTEREST

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**ALL PARTIES OF RECORD AS OF THE DATE OF THE ORDER SHALL BE
SERVED BY THE BANKRUPTCY NOTICING CENTER**